

DECLARATION AND POWER OF ATTORNEY PATENT APPLICATION  
CO-PENDING APPLICATION CONTAINING ADDITIONAL SUBJECT MATTER

As a below-named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name:

I believe I am the original, first and sole (if only one name is listed below) or an original, first and joint (if plural names are listed below) inventor of the subject matter which is claimed and for which a patent application is sought on the invention entitled:

**Electrosurgical Apparatus And System With Improved Tissue**

the specification of which

[X] is attached hereto.

[ ] was filed on, as application Serial No. \_\_\_\_\_, and was amended on \_\_\_\_\_.

This application in part discloses and claims subject matter disclosed in my earlier filed pending application \_\_\_\_\_, filed \_\_\_\_\_, and was amended on \_\_\_\_\_.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a).

I hereby claim benefit under Title 35, United States Code, §120 of any United States application(s) listed below, and insofar as the subject matter of each of the claims of the application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national PCT international filing date of this application:

| App'n Serial No. | Filing Date | Status                         |
|------------------|-------------|--------------------------------|
|                  |             | (patented, pending, abandoned) |

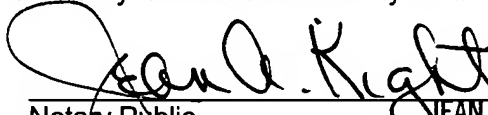
| App'n Serial No. | Filing Date | Status                         |
|------------------|-------------|--------------------------------|
|                  |             | (patented, pending, abandoned) |

I hereby appoint Gerald L. Smith, Reg. No. 22,009, Jerry K. Mueller, Jr., Reg. No. 27,576, and Diane E. Burke, Reg. No. 45,725 jointly and each of them severally, my attorneys and attorney, with full power of substitution, delegation and revocation, to prosecute this application, to make alterations and amendments therein, to receive the patent and to transact all business in the Patent and Trademark Office connected therewith. I hereby direct that all correspondence be addressed to: Mueller and Smith, LPA, 7700 Rivers Edge Drive, Columbus, Ohio 43235, and all telephone calls be directed to Gerald L. Smith., at telephone number (614) 436-0600.


STATE OF OHIO )  
 ) SS.  
COUNTY OF FRANKLIN )

Personally appeared before me this day the above-named Philip E. Eggers, to me personally known, who acknowledged that he signed the foregoing instrument for the uses and purposes therein mentioned, and that the same is his free act and deed.

In testimony whereof, I have hereunto set my hand and affixed my seal this 5<sup>th</sup> day of December, 2003.

  
Notary Public **JEAN A. KIGHT**  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES JUNE 19, 2004

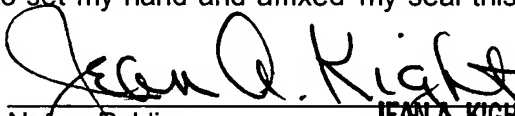
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Andrew R. Eggers

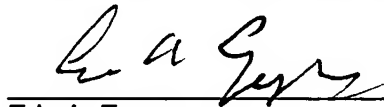
STATE OF OHIO )  
 ) SS.  
COUNTY OF DELAWARE )

Personally appeared before me this day the above-named Andrew R. Eggers, to me personally known, who acknowledged that he signed the foregoing instrument for the uses and purposes therein mentioned, and that the same is his free act and deed.

In testimony whereof, I have hereunto set my hand and affixed my seal this 4<sup>th</sup> day of December, 2003.

  
Notary Public **JEAN A. KIGHT**  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES JUNE 19, 2004

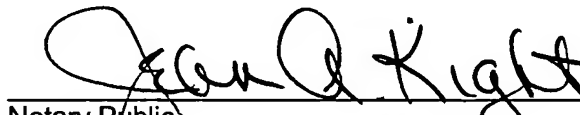
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Eric A. Eggers

STATE OF, OHIO )  
 ) SS.  
COUNTY OF FRANKLIN )

Personally appeared before me this day the above-named Eric A. Eggers, to me personally known, who acknowledged that he signed the foregoing instrument for the uses and purposes therein mentioned, and that the same is his free act and deed.

In testimony whereof, I have hereunto set my hand and affixed my seal this 4<sup>th</sup> day of December, 2003.

  
Notary Public **JEAN A. KIGHT**  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES JUNE 19, 2004